

SAINT-LEGER, D.
Serial No. 09/449,924

REMARKS

Reconsideration is requested.

The Amendment of February 28, 2003, has not been entered. See, Advisory Action dated March 10, 2003. As explained to the Examiner in voice mail messages from the undersigned on April 9 and 10, 2003, the claims have been amended above in manner similar to the Amendment of February 28, 2003, but for the recitation of "consisting essentially of" of the already-examined claim 1 has been retained in the above version of claim 1. No new matter has been added.

Claim 5 has been canceled, without prejudice. The recitations of claim 5 have been inserted into the independent claim 1, to advance prosecution and without prejudice. The above amendments do not raise new issues requiring further search and/or consideration. The previous examination of claim 5 necessarily included the examination of the above-amended claim 1 such that the amendment does not raise new issues requiring further search and/or consideration.

Upon entry of the above amendments, claims 1-4, 6-13 and 18-23 will be pending. No new matter has been added. As the subject matter of claim 5 has already been examined, entry of the above amendments will not raise new issues requiring further search and/or consideration. Entry of the above amendments is requested.

Return of an initialed copy of the PTO-1449 Form filed with the Information Disclosure Statement of May 9, 2000, which lists WO 99 49730, is requested.

Return of an initialed copy of the PTO 1449 Form filed May 12, 2003, pursuant to MPEP § 609, is requested.

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The Section 102 rejection of claims 1-4, 6-12 and 22 over WO 96/24329 is obviated by the above wherein the subject matter of claim 5, which was indicated as being patentable over the cited reference, has been inserted in independent claim 1. Entry of the above amendments will obviate the Section 102 rejection of claims 1-4, 6-12 and 22 over WO 96/24329. Accordingly, at a minimum, entry of the above amendments will reduce the issues for any potential Appeal. Entry of the above amendments and withdrawal of the Section 102 rejection of claims 1-4, 6-12 and 22 over WO 96/24329, are requested.

The Section 103 rejection of claim 5 over WO 96/24329 will be moot upon entry of the above amendments. Entry of the above and withdrawal of the Section 103 rejection of claim 5 are requested.

The Section 103 rejection of claims 1-13 and 18-23 over WO 96/24329 in view of U.S. Patent No. 5,552,425, is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing comments.

As shown in example 4, on pages 7 and 8 of the specification, the combination of 3-iodo-2-propynyl butyl carbamate and 3-(2-ethylhexyloxy)-1,2-propanediol, at doses at which each of their individual antifungal activities is lost, remains effective and shows reinforced antifungal activity.

The 3-(2-ethylhexyloxy)-1,2-propanediol is not disclosed in WO 96/24329 or U.S. Patent No. 5,552,425.

In view of WO 96/24329 and U.S. 5,552,425, it would therefore not have been obvious to one of ordinary skill in the art to have used IBC in combination with the specific claimed polyol, resulting in a strong and long-lasting antifungal activity.

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Thus, the invention as claimed in claim 1 would not have been *prima facie* obvious over WO 96/24329 or U.S. Patent No. 5,552,425.

Regarding claim 23, even if the compositions according to the invention are useful for personal cleansing and/or skin treating applications, as mentioned in WO 96/24329, it would not have been obvious to one of ordinary skill in the art, in view of WO 96/24329, to have used the claimed compositions for the treatment of inflammatory and/or desquamating skin disorders associated with *Malassezie* spp. Indeed, this activity differs from the activity against perineal dermatitis disclosed in the cited reference.

Withdrawal of the Section 103 rejection of claims 1-13 and 18-23 is requested.

The claims, as amended above, are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is urged to contact the undersigned in the event anything further is required to place the application in condition for allowance.

Respectfully submitted,

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By: _____



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